IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 3399 of 2004

Between:

1. T. Subba Rao s/o Thirupathaiah
   Work Inspector Grade III, O/o Dy. Executive Engineer (Panchayat Raj), . Sattenapalli
2. P. Bhadrachalam S/o late Ramalingaiah, working as Draftsman,
   Grade III, O/o Dy. Executive Engineer, (PR) Sub Division NO. II, Guntur

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep by its Secretary, Panchayat Raj . . . . Department, A.P., Secretariat, Hyderabad
2 The Engineer-in-Chief (PR) SRTGN Bhavan, Erramanzil, Hyderabad
3 The Superintendent Engineer (RWS) Zilla Parishad Compound, Guntur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction especially one in the nature of Writ of Certiorari calling for all the connected records including the judgment in OA No. 1764 of 2001 dated 23-1-2004 and quash the same as illegal, improper unjust, arbitrary and contrary to law.

Counsel for the Petitioner:MR.K.G.KRISHNA MURTHY

Counsel for the Respondent Nos 1 to 3.: GP FOR SERVICES-II

The Court made the following :

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ORDER: **(Per the Hon'ble Sri Justice G.Bikshapathy)**

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This writ petition is filed challenging the order dated 23-1-2004 in O.A.No. 1764 of 2001 passed by Andhra Pradesh Administrative Tribunal, Hyderabad.

2. The petitioners worked as Work Inspectors Grade-III initially. At the instance of the Work Inspectors Union, the Government issued G.O.Rt.No. 447 Panchayat Raj and Rural Development Department, dated 28-3-1998 to the effect that the services rendered by the Work Inspectors in work charged establishment, prior to the acquisition of the qualification from the date of appointment in the initial post, shall be counted for the purpose of seniority for the appointment to the post of Draughtsman Grade-III. However, the said G.O. was cancelled by the Government vide G.O.Rt.No. 42, Panchayath Raj and Rural Development Department, dated 10-1-2004. Challenging the said G.O. and also the consequential preparation of the tentative seniority list, the petitioners filed O.A.NO.1764 of 2001.

3. The Tribunal, however, without going into the validity of the G.O., held that since it is only a tentative seniority list, it is open to the petitioners to submit their objections, if any, to the tentative seniority list and the same shall be considered by the Department. Accordingly, the said O.A.No.1764 of 2001 was disposed of by an order dated 23-1-2004. Aggrieved by the said order, the present Writ Petition has been filed.

4. The learned counsel for the petitioners submits that the very challenge was made to G.O.Rt.No. 42, dated 10-1-2000 and the tentative seniority list is based on G.O. Rt No. 42 itself. In such a situation, the order of the Tribunal allowing the petitioners to

submit the objections to the tentative seniority list would not serve the purpose, until the validity of G.O.Rt.No.42 is decided. The Tribunal has not taken this aspect into consideration and disposed of the O.A.No.1764 of 2001, and therefore, the order of the Tribunal is liable to be set aside.

5. The learned Government Pleader for Services-II submits that even though the said G.O. was challenged contending its validity, yet it does not preclude the petitioners from filing the objections to the tentative seniority list.

6. We are unable to accept the contention of the learned Government Pleader. When once the G.O. is challenged before the Tribunal, the same has to be decided in one way or the other. Further, tentative seniority list is an offshoot of the G.O. Unless the matter is decided with regard to the validity of the G.O., there cannot be any defence to the petitioners to make any objection to the tentative seniority list. Under these circumstances, we are inclined to set aside the impugned order and remit back the matter to the Tribunal for fresh consideration and to decide the validity or otherwise of G.O. Rt No. 42 Panchayath Raj and Rural Development Department, dated 10-1-2000.

7. Accordingly the writ petition is allowed, setting aside the order dated 23-1-2004 and the matter is remitted back to the Tribunal for consideration as directed above. It is desirable that the Tribunal may dispose of the matter as expeditiously as possible, preferably within two months from the date of receipt of a copy of this order. No order as to costs.

G.Bikshapathy, J.

P.S.Narayana, J.

22nd February, 2005.

Note:

C.C.in two days.

(B/o)

KM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Tuesday the Twenty second day of February Two thousand and Five

ASSITANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of Andhra Pradesh, Panchayat Raj

. Department, A.P., Secretariat, Hyderabad
2 The Engineer-in-Chief (PR) SRTGN Bhavan, Erramanzil, Hyderabad
3 The Superintendent Engineer (RWS) Zilla Parishad Compound, Guntur

4. 2 CCs to G.P. for Services-II, High Court Buildings, Hyderabad.(OUT)

5. 2 CD copies

THE HONOURABLE SRI JUSTICE G.BIKSHAPATHY

A N D

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

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W.P.No. 3399 OF 2004

22nd Februrary, 2005.